

In the Matter of License Nos. 170916, R-2984, C/R 6022 Merchant  
Mariner's Document No. Z-100281(R) and all other licenses and  
Documents

Issued to: SAMUEL RAY DICKINSON

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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SAMUEL RAY DICKINSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 23 August 1955, an Examiner of the United States Coast Guard at New York, New York, suspended the above licenses and Merchant Mariner's Document issued to Samuel Ray Dickinson upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Junior Third Mate on board the American SS AMERICAN SCOUT under authority of his duly issued license on or about 11 August 1955, while said vessel was in the Port of New York, he assaulted and battered the Chief Mate of the ship and thereby inflicted injury upon him.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was presented by counsel of his own choice and he entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Master and Chief Mate who was alleged to have been injured by Appellant.

In defense, Appellant offered in evidence his sworn statement and that of the Third Assistant Engineer on the AMERICAN SCOUT. The Third Assistant testified that Appellant struck the Chief Mate three 1D while his hands were at his sides. Appellant testified that he acted in self-defense when the Chief Mate raised his fists as though he was going to start swinging. Appellant stated he could not retreat because he was in a corner.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge

and specification had been proved. He then entered the order suspending Appellant's licenses and Merchant Mariner's Document No. Z-100281NR), and all other documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of four months - two months outright suspension and two months suspension on probation until twelve months after the termination of the outright suspension.

Based upon my examination of the record submitted, I hereby make the following

#### FINDINGS OF FACT

On 11 August 1955, Appellant was serving as Junior Third Mate on board the American SS AMERICAN SCOUT and acting under authority of his License No. 170916 while the ship was in the Port of New York.

On 10 August, Appellant had signed off the Shipping Articles for lathe foreign voyage, but he worked on board on the morning of 11 August and received one day's pay.

On 11 August, Appellant was told that he had been relieved for the next trip. At about 1400, Appellant had packed his gear and was leaving the ship when he encountered the Chief Mate in a passageway. The Master was about ten feet away talking with someone and the Third Assistant Engineer passed by on his way to his room. Since Appellant resented the fact that he had worked 16 hours checking cargo in a hold at Hamburg with very little relief, he asked the Chief Mate if he had told the Master the truth about the incident. An argument followed and, without warning, Appellant struck the Chief Mate in the face three times while his hands were at his sides. The Chief Mate put his hands up to protect his bleeding face but he did not at any time threaten Appellant with words or gestures. The Master stopped the fight and the Chief Mate was given first aid for cuts inside his mouth. The Chief Mate received medical treatment and was incapacitated for work for a week.

Appellant's prior record during 23 years of service consists of a one-month suspension in 1945 for misconduct.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant raised the jurisdictional point that he had signed off the Shipping Articles the day before and was preparing to leave the ship. On the merits of the case, Appellant contends

that he acted in self-defense when the Chief Mate advanced upon Appellant in an aggressive manner.

### OPINION

There is no doubt that jurisdiction for this action existed since Appellant was still acting under the authority of his license since he was paid for working on 11 August. It is not necessary to be signed on Shipping Articles in order for a seaman to be acting under the authority of his license or document. In addition, there was a direct causal connection between Appellant's employment status under his license and his presence on the ship.

All the testimony except that of Appellant strongly indicates that Appellant was the aggressor and that no element of self-defense was present. This is true even with respect to Appellant's own witness. In any event, this was a question of fact to be decided by the Examiner as the trier of facts who was in the best position to judge the credibility of the witnesses after hearing and observing them,. The Examiner resolved the issue against Appellant's claim of self-defense.

Assault and battery is a serious offense against good order and discipline. The present offense was aggravated by the fact that it was committed by a licensed officer upon the Chief Mate. This conduct was a very bad example for the unlicensed personnel in the Merchant Marine service. The leniency of the order is only justified by Appellant's many years' service with just one prior offense.

### ORDER

The order of the Examiner dated at New York, New York, on 23 August 1955 is AFFIRMED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 24th day of February, 1956.